

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EVA DIAZ and FRANKIE DIAZ	:	CIVIL ACTION
as Administrators of the	:	NO. 22-3286
Estate of FRANKIE DIAZ, JR.,	:	
	:	
Plaintiffs,	:	
v.	:	
	:	
THE CITY OF PHILADELPHIA,	:	
et al.,	:	
	:	
Defendants.	:	

**O R D E R**

**AND NOW**, this **31st** day of **October, 2022**, after considering Defendants' Motion to Dismiss [ECF No. 7], Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss [ECF No. 13], and after a hearing on the record, it is hereby **ORDERED** that Defendants' Motion to Dismiss is **GRANTED**. Plaintiffs' Complaint is **DISMISSED WITHOUT PREJUDICE**.

It is **FURTHER ORDERED** that Plaintiffs are granted leave to file an amended complaint or a statement that they plan to stand on their amended complaint by **December 27, 2022**. Failure to act by **December 27, 2022**, will be deemed a decision by Plaintiffs that they wish to stand on the original complaint.

If Plaintiffs advise the Court that they will stand on their complaint or fail to so respond by **December 27, 2022**, the Court will dismiss Plaintiffs' complaint with prejudice due to Plaintiffs' failure to state a claim upon which relief can be

granted. The submission of a Joint Rule 26(f) Report and scheduling of a Rule 16 conference shall await further order of the Court.

The parties shall engage in limited initial disclosures under Federal Rule of Civil Procedure 26(a)(1) so that Plaintiffs may uncover the identities of the John Doe Defendants.

**AND IT IS SO ORDERED.**

*Eduardo C. Robreno*  
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**EDUARDO C. ROBRENO, J.**